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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,409	02/13/2002	Hideaki Tanaka	111867	3980

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EXAMINER

MACKEY, JAMES P

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 11/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/073,409

Applicant(s)

TANAKA, HIDEAKI

Examiner

James Mackey

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) 1-11, 13-16, 22 and 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10 November 2005 has been entered.

2. Claims 1-11, 13-16, 22 and 23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 21 November 2003.

Note that newly submitted claims 22 and 23 are directed to non-elected Species B1 (corresponding to originally-filed claims 13-14), and thus newly submitted claims 22-23 are withdrawn from consideration as being drawn to a non-elected species.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 12 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Publication 2001-18235 in view of Heintz, Jr. (U.S. Patent 2,756,460), Japanese Publication 5-138656 and Schmaderer et al. (U.S. Patent 5,066,209).

Japan '235 discloses the vulcanizing mold substantially as claimed, comprising a plurality of tread mold pieces 10 each having end surfaces 12 on both sides of a molding surface 11 as seen in the circumferential direction of the tire, the end surfaces each including an edge region situated adjacent to the molding surface to extend in a width direction of the tire tread portion, the mold pieces each comprising a first vent means being in communication with atmosphere and comprised of a narrow gap 17 formed by continuously removing the edge region over substantially the entire width of the tire tread portion, the narrow gap having a width within the claimed range (claim 19) and extending along that portion of the molding surface which corresponds to a land in the tire tread portion (claim 21), the first vent means further comprising a groove 18 formed in each of the end surfaces at a location spaced from the molding surface, the groove being wider than the narrow gap and in communication with the narrow gap and atmosphere (claim 20). Japan '235 does not explicitly disclose a second vent means comprised of fine slit-like apertures in a top surface of tubular pin members which forms part of the molding surface of the mold piece at a region corresponding to a land in the tire tread portion, the second vent means being isolated from the first vent means and being in communication with atmosphere, and does not disclose the aperture of the second vent means as being arranged adjacent a junction of the ridges of the tire tread mold.

Heintz, Jr. discloses a vulcanizing mold comprising a plurality of fine vent apertures 20 in communication with atmosphere (col. 2, lines 13, 57), the vent apertures being formed in the

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molding surface at a region corresponding to a land in the tire tread portion and spaced from the end surfaces of the tread mold pieces. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Japan '235 by providing the mold pieces with second vent means comprised of a plurality of fine vent apertures, as disclosed in Heintz, Jr., in order to fully vent trapped air pockets between mold ribs at a location spaced from the end surfaces of the tread mold pieces, and thereby avoid surface imperfections in the product tire, especially considering that Japan '235 discloses the need for adequate venting of trapped air pockets (via vent ridges 15 and cross vents 16).

Japan '656 discloses a vulcanizing mold comprising fine vent apertures in the form of a slit-like aperture in a top surface of a tubular pin member, the top surface forming part of the molding surface corresponding to a land in the tire tread portion. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Japan '235, in combination with Heintz, Jr., by providing the fine aperture of the second vent means as a slit-like aperture in a top surface of a tubular pin member, as disclosed in Japan '656, in order to facilitate venting while avoiding spue (spew) formation, and in order to easily provide a vent structure in the tire mold piece. With regard to the dimensions of the vent aperture (claim 12), it would have been obvious and well within the level of ordinary skill in the art to provide the vent aperture as disclosed in Japan '656 of such dimensions in order to maximize venting capability while minimizing clogging by rubber, especially considering the teaching of Japan '235 that vent gap 17 "width t" should be from 0.005 to 0.05 mm and vent gap 17 "depth v" should be 1-2 mm.

Schmaderer et al. disclose a vulcanizing mold comprising slit-like vent apertures 18, 46, 50 (which may have a gap width of 0.05 mm; col. 3, lines 46-47) located adjacent a junction of

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the ridges 14, 16 of the tire tread mold piece (see col. 4, lines 53-57) in order to fully vent the mold cavity at the location of a juncture of the profiling ribs (see col. 1, lines 15-21 and col. 2, lines 21-25). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Japan '235, in combination with Heintz, Jr., by providing the venting aperture adjacent a junction of the ridges of the tire tread mold piece, as disclosed in Schmaderer et al., in order to fully vent any air pockets at ridge corner regions.

6. Applicant's arguments filed 10 November 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

7. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

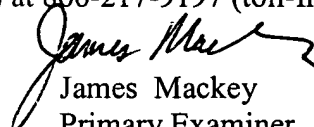
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Mackey whose telephone number is 571-272-1135. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James Mackey
Primary Examiner
Art Unit 1722

11/21/05

jpm
November 21, 2005